

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

**MARIA D. HERNANDEZ AND
FERNANDO SALAZAR,**

Plaintiffs,

VS.

**CARRINGTON MORTGAGE
SERVICES, LLC AND SERVIS ONE,
INC./D/B/A BSI FINANCIAL SERVICES,
INC.,**

Defendants

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CIVIL ACTION NO. 4:15-cv-00596

JURY DEMANDED

NOTICE OF REMOVAL OF CIVIL ACTION

Defendant Servis One, Inc. d/b/a BSI Financial Services, Inc., (“BSI”) hereby files its Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446.

Introduction

1. This suit began in the district court of Denton County, Texas on September 4, 2013 when Plaintiffs, Maria D. Hernandez (“Hernandez”) and Fernando Salazar (“Salazar”) filed their Original Petition Request s for Disclosure, naming Carrington Mortgage Services, LLC (“Carrington”) and BSI as Defendants in an action styled *Maria D. Hernandez and Fernando Salazar vs. Carrington Mortgage Services, LLC and Servis One, Inc. d/b/a BSI Financial Services, Inc.*(the “Complaint”), cause number 2013-61168-393 pending in the 393rd District Court of Denton County, Texas (“State Court Action”). A copy of Plaintiffs' Complaint in the State Court Action, together with a copy of all process, pleadings, and orders served upon BSI and Carrington are attached to this notice of removal in accordance with 28 U.S.C. §1446(a). All

defendants have been served, have appeared and answered herein.

2. On August 3, 2015, Hernandez and Salazar amended their pleading stating a claim under the laws of the United States.

3. Carrington consents to removal.

Short and Plain Statement of the Grounds for Removal

• ***Federal Question***

4. This removal is brought under federal question jurisdiction. The state court claims seek damages and injunctive relief on various tort and contract claims. The case concerns transactions and party dealings related to a mortgage and real property situated in Denton County, Texas, located at 5904 Legend Lane, The Colony, Denton County Texas 75056 (“Property”).

5. Among other things, in their live pleading, Plaintiffs seek relief against BSI and Carrington under the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 et seq. Pursuant to 28 U.S.C. § 1441(c), the action is accordingly removable to this court.

6. Prior to their amended pleading, filed on August 3, 2015, no federal question was raised by Hernandez and Salazar. Upon amending their pleading, Hernandez and Salazar raised federal claims for the first time. This notice of removal is filed within 30 days after Plaintiffs filed an amended pleading from which BSI first ascertained that the case is one which is or has become removable. 28 U.S.C. § 1446(b)(3).

Venue

7. Venue for removal is proper in this district and division under 28 U.S.C. § 124(c)(3) because this district and division embrace the 393rd Judicial District Court of Denton County, Texas, the forum in which the removed action was pending. Pursuant to 28 U.S.C.

124(c)(3) this case is removable to the Sherman Division of the United States District Court for the Eastern District of Texas.

8. Hernandez and Salazar have demanded a jury.

Additional Requirements of Local Rule 81

9. List of parties, party type and current status:

<u>Party Name</u>	<u>Party Type</u>	<u>Current Status</u>
Fernando Salazar	Plaintiff – Requested Trial by Jury	Active, with counsel
Maria Hernandez	Plaintiff – Requested Trial by Jury	Active, with counsel
Carrington Mortgage Services, LLC	Defendant	Active, has been served and answered
Servis One, Inc. d/b/a BSI Financial Services, Inc.	Defendant	Active, has been served and answered

10. List of counsel:

Counsel's name, address, telephone number and e-mail address	Party Represented	Bar Number
Rachel E. Khirallah Khirallah PLLC 5307 E. Mockingbird, Suite 802 Dallas, Texas 75206 rkhirallah@khirallahpllc.com	Plaintiffs, Fernando Salazar and Maria Hernandez	24050872
Jennifer W. Johnson Law Office of Mark A. Ticer 10440 N. Central Exp. Suite 600 Dallas, Texas 75231 jjohnson@ticerlaw.com	Plaintiffs, Fernando Salazar and Maria Hernandez	24060029

Counsel's name, address, telephone number and e-mail address	Party Represented	Bar Number
Peter C. Smart Crain, Caton & James, 1401 McKinney Ste. 1700 Houston, TX 77010 (713) 658-2323 psmart@craincaton.com	Carrington Mortgage Services, LLC	00784989
Robert L. Negrin Aldridge Pite, LLP 550 Westcott Street Ste. 560 Houston, Texas 77007 (713) 293-3650 rnegrin@aldrigdepite.com	Servis One, Inc. d/b/a BSI Financial Services, Inc.	14865550

11. The case is removed from the 393rd District Court of Denton County, 1450 East McKinney Street, 4th Floor, Denton, TX 76209-4524. Written Notice of Removal will be provided to Plaintiffs and filed with the District Clerk of Denton County, Texas.

12. Documents attached and indexed:

- Certified Copy of Judicial Docket Entries (Docket Sheet)
- Citation for Personal Service on Defendant, Carrington with officer's return and affidavit of service
- Citation for Personal Service on Defendant, BSI with officer's return and affidavit of service
- Plaintiffs' Original Petition and Requests for Disclosure
- Carrington's Original Answer
- BSI's Original Answer
- Plaintiffs' First Amended Petition
- Plaintiffs' Verified Second Amended Petition, and Application for Temporary Restraining Order and for Permanent Injunctive Relief
- BSI's Special Exceptions
- Plaintiffs' Unopposed Motion for Substitution of Counsel

- Order granting Plaintiffs' Unopposed Motion for Substitution of Counsel
- Fiat Setting BSI's special exceptions for hearing
- Plaintiffs' Third Amended Petition and Application for Permanent Injunctive Relief
- Plaintiffs' Jury Demand
- Agreed Scheduling Order
- Notice of Change of Address for counsel for defendant, BSI
- Agreed and Joint Motion for Continuance
- Agreed Scheduling Order
- Agreed Order Granting Motion for Continuance
- Joint Motion for Entry of Agreed Order Modifying Agreed Scheduling Order to Extend Mediation Deadline
- Agreed Order Modifying Agreed Scheduling Order
- Plaintiffs' Notice of Appearance
- Notice of Change of Address for Khirallah PLLC
- Plaintiffs' Fourth Amended Petition and Application for Permanent Injunctive Relief
- Carrington's First Amended Answer
- BSI's Original Answer to Plaintiffs' Fourth Amended Petition
- Notice of Intention to Take Deposition by Written Questions

Respectfully Submitted,

ALDRIDGE PITE, LLP

/s/ Robert L. Negrin

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ATTORNEYS FOR DEFENDANT,

SERVIS ONE, INC. D/B/A BSI

FINANCIAL SERVICES, INC

Certificate of Service

I certify that a true and correct copy of the foregoing document has been served upon the following parties/counsel of record via certified mail, return receipt requested and United States First Class mail, postage prepaid, pursuant to the Federal Rules of Civil Procedure on September 1, 2015:

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/s/ Robert L. Negrin

Robert L. Negrin